

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ABDIEL F. AVILA,

Plaintiff,

v.

STATE OF NEW JERSEY, et al.,

Defendants.

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Civil Action No. 13-0779 (JAP)

MEMORANDUM OPINION & ORDER

1. Plaintiff Abdiel F. Avila (“Plaintiff”), a state inmate presently confined at the New Jersey State Prison, submitted for filing his civil complaint (“Complaint”) accompanied by his application to prosecute it in forma pauperis under 28 U.S.C. § 1915. See Docket Entry No. 1. The Court denied Plaintiff in forma pauperis status on the grounds that Plaintiff had incurred three strikes. See Docket Entry No. 2. The Court explained to Plaintiff that he may not proceed in forma pauperis in this matter and has to prepay his filing fee of \$350. See id. In addition, the Court pointed out numerous deficiencies in Plaintiff’s pleading and clarified that, in the event Plaintiff prepays his filing fee, he should submit his amended pleading in conjunction with such prepayment. See id.
2. In response, Plaintiff submitted: (a) an amended pleading, see Docket Entry No. 4; (b) another in forma pauperis application, see Docket Entry No. 5; and (c) a motion seeking relief from the Court’s prior order. See Docket Entry No. 6 (asserting that the Court has to address Plaintiff’s amended pleading on merits). However, being subject to the operation of the “three-strikes” rule, Plaintiff cannot litigate this matter (including the claims stated in his amended pleading) until and unless he prepays his filing fee of \$350.

IT IS, therefore, on this 18th day of March, 2013,

ORDERED that the Clerk shall reopen this matter by making a new and separate entry on the docket reading, “CIVIL CASE REOPENED”; and it is further

ORDERED that Plaintiff’s repeated application to proceed in this matter in forma pauperis, Docket Entry No. 5, is denied with prejudice for the reasons stated in the Court’s prior decision docketed as Docket Entry No. 2; and it is further

ORDERED that Plaintiff’s motion seeking relief from the Court’s prior decision, Docket Entry No. 6, is denied for the same reasons; and it is further

ORDERED that the Clerk shall administratively terminate this matter by making a new and separate entry on the docket reading, “CIVIL CASE TERMINATED”; and it is further

ORDERED that Plaintiff may have this case reopened if, *and only if*, Plaintiff prepays his \$350.00 filing fee within thirty days from the date of entry of this Memorandum Opinion and Order; and it is further

ORDERED that, in the event Plaintiff fails to prepay his \$350.00 filing fee within thirty days from the date of entry of this Memorandum Opinion and Order, the instant matter will be deemed conclusively terminated without further notice to Plaintiff; and it is finally

ORDERED that the Clerk shall serve this Memorandum Opinion and Order upon Plaintiff by regular U.S. mail.

/s/ Joel A. Pisano
JOEL A. PISANO
United States District Judge